

## **ROTH CONVERSIONS**

On November 26, 2010, the IRS issued Notice 2010-84 containing guidance for 401(k) and 403(b) plans about in-plan Roth rollovers - a feature that permits plan participants to roll over eligible rollover distributions made after September 27, 2010, from a non-Roth account into a designated Roth account *in the same plan*.

If your Plan allows Roth contributions and you are interested in learning more about converting pre-tax account balances to Roth within the Plan, please ask your administrator for more guidance.

## **FEE DISCLOSURES**

The Department of Labor has been focusing on the area of fees charged against retirement plans. Their intent is to provide the participants with the full disclosures necessary to make informed decisions when choosing among plan investments, as well as to provide employers the information necessary to make informed decisions as to what options to provide to the participants.

First, fee disclosures by the plan on Form 5500. For 2009, a new Schedule C was introduced that required large plans to report all compensation paid on behalf of the plan - including direct compensation (paid directly from the plan to the service provider) and indirect compensation (paid by a third party to the service provider).

Second, on July 16, 2010, final regulations were published on fee disclosures that must be provided by service providers to the plan sponsors, to enable the plan sponsor to determine if the fees are "reasonable". These cover a broad range of service providers, including investment advisers, recordkeepers, third party administrators, accountants, attorneys - anyone who is expected to receive \$ 1,000 or more in direct or indirect compensation from the plan. For existing contracts the service provider must provide the plan sponsor with this information prior to July 16, 2011.

Third - on October 20, 2010, final regulations were published on the fee disclosures that must be given to plan participants. They will cover any individual account plans where the participant has the option to choose among investment options, and only cover fees actually charged against their accounts. There are two sets of disclosures (1) up front disclosures that must be made prior to the employee's option to select among the funds - and must show in general, the types of fees that could be charged, when they will be charged and how the charges are calculated, and (2) fees actually charged to the participant's account that must be reported on a quarterly basis.

Although it is the responsibility of the plan administrator (the employer) to provide these disclosures, in most cases the plan's investment platform or adviser will be providing the disclosures, both at the point of enrollment as well on the quarterly statements. For most plans, these regulations will be effective January 1, 2012.

## **EFAST2 LOOK-BACK**

2010 was the first year of mandatory electronic filing for (2009) form 5500 series Annual Return/Report for Employee Benefit Plan. While it took us some extra time to customize and test our software and procedures, all calendar year plans were successfully submitted by the extended deadline.

Our software vendor compiled the following list of the main electronic filing obstacles encountered this past year:

1. Credentials - not properly registered or not signed in correct place
2. Confusion with meaning of statuses - filing received, etc.
3. Procrastination
4. Handling of attachments - auditor's opinion, etc.
5. Data Errors - forms not properly validated prior to filing
6. Not Using Available Aids - help, FAQs
7. Confusion on how to Retrieve, Republish and Amend filings

We anticipate that this process will become easier to all involved as we enter the second year. We ask that you keep your EFAST2 filing credentials accessible as these will be needed each subsequent year.

Via Dictionary.com: If someone asked you to name the most beautiful word or phrase in English, how would you choose? Would it be based on the meaning of the word? How it sounds? How it is spelled?

There are some words, like "love," "comely," or "demure," that seem like solid contenders. **But the compound word that some believe to be the most inherently beautiful will likely come as a colossal surprise. "Cellar door."**

That's no typo. In terms of phonaesthetics, cellar door is often held up as an example of the most euphonic sound combination. J.R.R. Tolkien, author of "The Hobbit" and "Lord of the Rings," is credited as one of the first to make this claim.

Phonaesthetics is the study of the euphony and cacophony of words without regard for semantics. Phonaesthetics derives from two Greek word parts that mean "voice-sound" and "aesthetics."

Euphony is used most commonly to describe the pleasing, agreeable sound effect of poetry. In general, vowel sounds are more euphonic. Cacophony, meaning harsh and discordant, is the opposite of euphony. Cacophony comes from the Greek word parts meaning "bad," "evil," and "voice." Say the words slowly: "cellar door." Is the sound pleasing to your ears?

For quite some time we've been sending our clients and associates the American Splendor Desk Calendar, featuring beautiful scenic photographs from across the nation. It's arrival has been met here with great dismay each of the last few years as we have begun to realize that the Keystone state has not once been represented. It's certainly not for lack of its natural beauty, we think you all would agree. Perhaps we should make it a tradition to share some of that beauty each year in our newsletter, until the state is featured in the desk calendar.



Pictured to the right is the Pine Creek Gorge, called the Grand Canyon of Pennsylvania, situated in Tioga County in the north-central portion of the state.

**BONUS PAY - TO DEFER OR NOT DEFER**

When a special payroll takes place, are you applying participants' 401(k) deferral elections, same as for regularly scheduled payrolls? If not, you could be violating the terms of the participant enrollment election and/or the plan document. This has become a point of emphasis for the IRS, DOL and independent auditors and, in some cases, the employer has been required to contribute the un-deducted deferral and also corresponding match contributions at their own expense. Our advice is that, unless the plan document excludes the specific form of compensation from consideration for contributions, then the deferral election in place should be applied as per normal pay cycles.

IRS sending out 401(k) compliance questionnaires  
The IRS will be sending compliance questionnaires to approximately 1,200 401(k) plan sponsors. Data gathered from the results of this compliance check will help the IRS with guidance, compliance and determining where to focus outreach efforts regarding 401(k) plans. While the questionnaire is "not an audit", it could lead to additional follow-up if the IRS sees fit. If you receive such correspondence, please contact us for guidance.

**SCHEDULE SSA / Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits**

This form was part of the 5500 filing prior to 2009 and was used to report pending retirement benefits to the Social Security Administration (SSA). The SSA would use this data to notify people who were about to begin collecting social security benefits of possible other retirement benefits available.

The presence of sensitive participant data (social security numbers) on these forms necessitated removal of this schedule from the 5500 series effective with 2009 forms and the mandatory electronic filing thereof.

The government still wants this data to be reported and has indicated that there will be a form 8955-SSA for this purpose. However, to date the form has still not been released. All indications are that this will be released sometime in 2011; electronic filing will not be required, and 2009 deferred vested participants will be reported together with 2010 deferred vested participants.

	2007	2008	2009	2010	2011
401(k) Elective Deferrals	\$15,500	\$15,500	\$16,500	\$16,500	\$16,500
Catch-up Contributions	5,000	5,000	5,500	5,500	5,500
Defined Benefit Plans	180,000	185,000	195,000	195,000	195,000
Defined Contribution Plans	45,000	46,000	49,000	49,000	49,000
Annual Compensation Limit	225,000	230,000	245,000	245,000	245,000
Highly Compensated Employee	100,000	105,000	110,000	110,000	110,000
SIMPLE Retirement Accounts	10,500	10,500	11,500	11,500	11,500
SIMPLE Catch-up	2,500	2,500	2,500	2,500	2,500
SEP Coverage	500	500	550	550	550
SEP Compensation	225,000	230,000	245,000	245,000	245,000
Social Security Wage Base	97500	102,000	106,800	106,800	106,800

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